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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/828,784
Filing Date: April 21, 2004
Appellant(s): CONNELLY ET AL.

David J. McKenzie
Reg. No. 46,919
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed July 30, 2006 appealing from the Office action mailed March 6, 2006

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

Appellant's brief presents arguments relating to an objection to the drawings and claims. These issues relate to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,445,587	Pavol	9-2002
5,858,509	Polch	1-1999
6,209,842	Anderson	4-2001
6,775,142	Bell	8-2004

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

1. With respect to the rejections under 35 U.S.C 112 of claims 1, 3-11, and 13-30, said rejections are hereby withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21, 24, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Pavol (PN 6,445,587). With respect to claim 21, the method for reducing vibration is inherent in the structure of Pavol, Pavol teaches providing an enclosure chassis (104) configured to store at least one storage device (102), providing a mounting surface (interior surface of mounting bay 108) oriented vertically (the side walls of the bay are oriented vertically, see Fig. 3) and coupled to the enclosure chassis to form one wall of a drive bay (108), the mounting surface configured for receiving a horizontally oriented storage device carrier (106); providing a first layer on the mounting

surface (128); providing a second layer on the mounting surface (136); and providing a viscoelastic layer (126) disposed between the first and second layer of the mounting surface for reducing vibration propagation throughout the mounting surface; and providing an interface shelf oriented horizontally and coupled to the enclosure chassis (104) such that the interface shelf isolates horizontal storage device bays (108) above the interface shelf from storage device bays below the interface shelf (see Fig. 1 clearly showing a shelf (not labeled) between the upper and lower storage bays).

4. With respect to claim 24, Pavol teaches an enclosure chassis (104) configured to store at least one storage device (102), a mounting surface (interior surface of mounting bay 108) oriented vertically (the side walls of the bay are oriented vertically, see Fig. 3) and coupled to the enclosure chassis to form one wall of a drive bay (108), the mounting surface configured to receive less than three horizontally oriented a storage device carriers (106, the mounting surface is configured to receive one carrier, which is less than three) and having a damping means (foam laminates comprising of elements 126, 128, and shelves 130, 132, 136) for damping the vibrational energy generated by the storage device and received by the mounting surface; and an interface shelf oriented horizontally and coupled to the enclosure chassis such that the interface shelf isolates horizontal storage device bays above the interface shelf from storage device bays below the interface shelf (see Fig. 1 clearly showing a shelf between the upper and lower storage bays).

5. With respect to claim 25, Pavol teaches wherein the damping means comprises a first layer (128), a second layer (136), and a viscoelastic layer (126) between the first layer and the second layer.

6. With respect to claim 27, Pavol teaches a receiving means (col 5 lines 65-66 col 6 lines 1-2) coupled to the mounting surface (interior surface of mounting bay 108) for receiving and retaining a storage device carrier (106) perpendicular to the mounting surface (see Fig. 1, 3, the carriers extend in a direction perpendicular from the surface of 128).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1, 3-6, 8, 9-11, 13, 14, 16, 17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavol (PN 6,445,587) in view of Anderson at al. (PN 6,209,842). With respect to claim 1, Pavol teaches an enclosure chassis (104); a mounting surface (interior surface of mounting bay 108 outer surface of 128) oriented vertically (the side walls of the bay are oriented vertically, see Fig. 3) and coupled to the enclosure chassis to form one wall of a drive bay (108), the mounting surface configured to receive a horizontally oriented storage device carrier (106, the top and bottom of the carrier are oriented with the horizon, see Fig. 3), the mounting surface having a first layer (128) and a second layer (136); a viscoelastic layer (126) disposed

between the first layer and the second layer to reduce vibration propagation throughout the mounting surface. Pavol lacks specific teaching of a separate receiver structure. Anderson teaches an enclosure chassis with mounting bays (103, see Fig. 1); a storage device carrier (200); and a receiver (301) secured to the mounting surface (see Fig. 3, col 3, 50-56), the receivers configured to receive and retain the storage device carriers substantially perpendicular to the mounting surface (col 3, 50-61). It would have been obvious to a person of ordinary skill in the art to combine the disk drive system of Pavol with the rail system of Anderson for the benefit of storage device carriers guided by rails to mate with the connectors of the backplane.

9. With respect to claim 4, Anderson teaches a second receiver (see Fig. 3 clearly showing multiple receivers) secured to the mounting surface, the second receiver configured to retain a second storage device carrier (see Fig. 3, each rail retains a separate carrier, col 3, 50-61).

10. With respect to claim 9, Pavol teaches an enclosure chassis (100); a mounting surface (interior surface of mounting bay 108 outer surface of 128) oriented vertically (the side walls of the bay are oriented vertically, see Fig. 3) and coupled to the enclosure chassis to form one wall of a drive bay (108), the mounting surface having a first layer (128) and a second layer (136); a viscoelastic layer (126) disposed between the first layer and the second layer to reduce vibration propagation throughout the mounting surface; a first and second storage device carrier (106) configured to retain a storage device therein. Pavol lacks specific teaching of a separate receiver structure. Anderson teaches an enclosure chassis with mounting bays (103, see Fig. 1); a storage

device carrier (200); and a first and second receiver (301, see Fig. 3) secured to the mounting surface, the receivers configured to receive and retain the storage device carriers substantially perpendicular to the mounting surface (col 3, 50-61). It would have been obvious to a person of ordinary skill in the art to combine the disk drive system of Pavol with the rail system of Anderson for the benefit of storage device carriers guided by rails to mate with the connectors of the backplane.

11. With respect to claim 10, Anderson teaches a spring (405, 600) configured to resiliently couple a storage device carrier (400) between the mounting surface (401 and 403) and the receiver (301), the spring having first and second ends configured to engage one of the storage device carrier and the mounting surface (see Fig. 4, one end engages the carrier with fastening means 407 and another end engages the mounting surface 401, 403). Anderson does not specifically teach a clip-on spring, but does state other mounting means may be used (col 4 lines 65-67). It would have been obvious to a person or ordinary skill in the computer art to combine the drive mounting system of Pavol with the laminated damping device of Anderson, utilizing any mounting means well know and old in the art such as a clip-on means, for the benefit of increased protection from vibrations.

12. With respect to claims 3 and 11, Pavol teaches wherein an interface shelf oriented horizontally and coupled to the enclosure chassis (104) such that the interface shelf isolates horizontal storage device bays (108) above the interface shelf from storage device bays below the interface shelf (see Fig. 1 clearly showing a shelf (not labeled) between the upper and lower storage bays).

13. With respect to claims 5 and 13, Pavol teaches wherein the mounting surface is configured to receive the first storage device carrier (106) on one side of the mounting surface and the second storage device carrier on an opposite side of the mounting surface (see Fig. 1, clearly teaching that the carriers of the top and bottom row are received on opposite sides of the same mounting surface).

14. With respect to claims 6 and 14, Anderson teaches the mounting surface is disposed to receive the first storage device carrier (200) on one side of the mounting surface and the second storage device carrier on a same side of the mounting surface as the first storage device (see Fig. 3, col 3, 50-61).

15. With respect to claims 8 and 16, Pavol teaches the storage device (102) is a disk drive (col 3 line 26).

16. With respect to claim 17, Anderson teaches wherein the clip-on spring (405, 600) comprises at least three layers (601, 603, 605) including at least one viscoelastic layer (605, see Fig. 6 and col 4 lines 35-36).

17. With respect to claim 23, Pavol teaches the method as applied to claim 21 above, but lacks specific teaching of a separate receiver. The method for reducing vibration is inherent in the structure of Anderson. Anderson teaches providing a storage device carrier (400) for retaining a storage device, securing a receiver (301) to the mounting surface (401 and 403) for receiving the storage device carrier; and coupling at least one damped spring (405, 600) to the storage device carrier, for resiliently coupling the storage device carrier between a receiver formed in the mounting surface and the mounting surface (the carrier is between both the receiver and the mounting surfaces,

see Fig. 3-5). Anderson does not specifically teach a clip-on spring, but does state other mounting means may be used (col 4 lines 65-67). It would have been obvious to a person or ordinary skill in the computer art to combine the drive mounting system of Pavol with the laminated damping device of Anderson, utilizing any mounting means well know and old in the art such as a clip-on means, for the benefit of increased protection from vibrations.

18. Claims 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavol (PN 6,445,587) in view of Polch et al. (PN 5,858,509). With respect to claim 22, Pavol teaches the method of claim 21 above, but lacks a viscoelastic layer disposed between the layers of the chassis other than in the mounting surface. The method of reducing vibration is inherent in the structure of Polch, Polch teaches providing a first layer (28) on the enclosure chassis (9); providing a second layer (26) on the enclosure chassis; and providing a viscoelastic layer (36, 38, 39, 40 are preferably 3M's ISD 112, see col 4 lines 19-20, see also attached reference from 3M's online catalog describing ISD 112 as a viscoelastic polymer) disposed between the first and second layer of the enclosure chassis (see Fig. 2), for reducing vibration propagation throughout the enclosure chassis. It would have been obvious to a person of ordinary skill in the computer art to combine the mounting shelf of Polch with the mounting enclosure of Pavol to obtain a drive mounting system for the benefit of increased vibration attenuation.

19. With respect to claim 26, Pavol teaches the device as applied to claim 25 above, but lacks where the viscoelastic layer is a damping adhesive. Polch teaches using an

acrylic adhesive layer (see col 4 lines 19-20, see also attached reference from 3M's online catalog describing ISD 112 as a viscoelastic damping polymer). It would have been obvious to a person of ordinary skill in the computer art to use any available suitable material for the viscoelastic layer of Pavol, such as the acrylic adhesive suggested by Polch for the benefit of a damping means that bonds itself to a surface thereby simplifying construction.

20. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavol (PN 6,445,587) in view of Anderson at al. (PN 6,209,842) and in further view of Polch et al. (PN 5,858,509). With respect to claim 7 and 15, Pavol in view of Anderson teaches the device as applied to claim 1 and 9 above, but lacks a viscoelastic layer disposed in the enclosure chassis other than in the mounting surface. Polch teaches an enclosure (9) for storing at least one storage device (8), comprising a viscoelastic layer (36, 38, 39, 40 are preferably 3M's ISD 112, see col 4 lines 19-20, see also reference cited from 3M's online catalog describing ISD 112 as a viscoelastic polymer) disposed between a first layer (28) and a second layer (26) of the enclosure chassis (see Fig. 2). It would have been obvious to a person of ordinary skill in the computer art to combine the mounting shelf of Polch as modified by Anderson with the mounting enclosure of Pavol to obtain a drive mounting system for the benefit of increased vibration attenuation.

21. Claims 18 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavol (PN 6,445,587) in view of Bell at al. (PN 6,775,142). With respect to claim 18, Pavol teaches an enclosure chassis (104), a mounting surface (interior surface of

mounting bay 108 outer surface of 128) oriented vertically (the side walls of the bay are oriented vertically, see Fig. 3) and coupled to the enclosure chassis to form one wall of a drive bay (108), the mounting surface having a first layer (128) and a second layer (136) and a viscoelastic layer (126) disposed between the first layer and the second layer to reduce vibration propagation throughout the mounting surface, the mounting surface configured to receive less than three horizontally oriented a storage device carriers (106, the mounting surface is configured to receive one carrier, which is less than three) substantially perpendicular to the mounting surface (see Fig. 1, 3, the carriers extend in a direction perpendicular from the surface of 128); interface shelf oriented horizontally and coupled to the enclosure chassis (104) such that the interface shelf isolates horizontal storage device bays (108) above the interface shelf from storage device bays below the interface shelf (see Fig. 1 clearly showing a shelf (not labeled) between the upper and lower storage bays); a storage device carrier (106) including a bezel (116, the broadest reasonable definition of bezel in the computer art is: "a cover"; 116 covers a side of the drive 102, see Fig. 2), the storage device carrier configured to retain a storage device (102) therein, the storage device having a storage device carrier interface (138). Pavol lacks a key removably secured on the bezel. Bell teaches a key (24, 21) removably secured to at least one of two positions on the bezel (124, see Fig. 3), such that placement of the key (21, 24, etc.) into one of the two positions prevents the storage device carrier interface from contacting an incompatible interface upon inserting the storage device carrier into the enclosure chassis (see Fig. 3, 9, 10, col 7, 16-24). It would have been obvious to a person of ordinary skill in the

computer art to combine the drive vibration attenuation system of Pavol with the key system of Bell to obtain a drive system where the device carriers are selectively keyed to fit selected bays for the benefit of a system that prevents a user from inadvertently matching one device type with an incompatible type and also provides vibration attenuation.

22. With respect to claim 28, Pavol teaches the device as applied to claim 24 above, but lacks a bezel with a keying means. Bell teaches a bezel (124, the broadest reasonable definition of bezel in the computer art is: "a cover"; see Fig. 3) secured to the storage device carrier (120) and configured to lock the drive carrier within the enclosure; and a keying means (pins 21, 24, etc. and holes for said pin, see Figs. 1, 2, col 6, 51-64), attached to the bezel (see Fig. 4), for preventing a storage device carrier, with one type of interface, from contacting an incompatible interface upon inserting the storage device carrier into the enclosure chassis (see Fig. 4, 8, 9, 10, col 7, 16-24). It would have been obvious to a person or ordinary skill in the art to combine the drive vibration attenuation system of Pavol with the key system of Bell to obtain a drive system where the device carriers are selectively keyed to fit selected bays for the benefit of a system that prevents a user from inadvertently matching one device type with an incompatible type and also provides vibration attenuation.

23. With respect to claim 29, Bell teaches wherein the keying means (pins 21, 24, etc. and holes for said pin, see Figs. 1, 2, col 6, 51-64) for keying a storage device carrier (120) comprises a key (21, 24, etc.) removably secured to at least one of two positions on the bezel (124, see Fig. 3), and wherein the placement of the key into one

of the two positions prevents the storage device carrier interface from contacting an incompatible interface upon inserting the storage device carrier into the enclosure chassis (see Fig. 4, 8, 9, 10, col 7, 16-24).

24. With respect to claim 30, Bell teaches wherein the keying means for keying a storage device carrier comprises a groove in the enclosure chassis configured to receive the key (see Fig. 5, the key plate 135 may comprise grooves for accepting the keys 24, 21).

25. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavol (PN 6,445,587) in view of Bell at al. (PN 6,775,142) as applied to claim 18 above, and further in view of Anderson at al. (PN 6,209,842). With respect to claim 19, Pavol as modified by Bell lacks specific teaching of a clip-on spring. Anderson teaches at least one spring (405, 600) coupled to the storage device carrier (400), the spring configured to flexibly couple the storage device carrier to the mounting surface (401, 403, see Fig. 4), the spring having first and second ends configured to engage one of the storage device carrier and the mounting surface (see Fig. 4, one end engages the carrier with fastening means 407 and another end engages the mounting surface 401, 403). Anderson does not specifically teach a clip-on spring, but does state other mounting means may be used (col 4 lines 65-67). It would have been obvious to a person or ordinary skill in the computer art to combine the keyed drive mounting system of Pavol as modified by Bell with the laminated damping device of Anderson, utilizing any mounting means well know and old in the art such as a clip-on means, for the benefit of increased protection from vibrations.

26. With respect to claim 20, Anderson teaches wherein the clip-on spring (405, 600) comprises at least three layers (601, 603, 605) including at least one viscoelastic layer (605, see Fig. 6 and col 4 lines 35-36).

(10) Response to Argument

1. With respect to the arguments concerning claims 1, 9, and 18:

a. The Appellant argues Pavol fails to teach a horizontally oriented storage device carrier. Firstly, the Appellant fails to give the claim terms their plain meaning. The terms "horizontally" and "vertically" are completely dependant upon a subjective perspective. The other claim terms do not fix the perspective and therefore allow for a broad interpretation. Using the reasoning applied in the rejections above, Pavol does in fact teach a vertically oriented mounting surface and a horizontally oriented storage device carrier.

b. Secondly, Pavol explicitly contradicts the Appellant's argument of how one of ordinary skill in the art would interpret the claim terms. Pavol, at column 5 lines 6-15, states: "Here, these resilient layers 126 provide **horizontal positioning of the drive module 106** as well as additional shock and vibration damping." (emphasis added) The Appellant argues at page 16 of the Appeal Brief filed July 3, 2006 in length on how one of ordinary skill would interpret horizontal and vertical orientation; and how Pavol teaches a vertical, not horizontal oriented storage device carrier. This disparity between the prior art of record and the Appellant's arguments evidence the fact that the concept of

horizontal and vertical are relative within the art. The Examiner is properly applying the knowledge of a worker in the art to broadly interpret the claim language.

c. Thirdly, a rotation of 90° of the prior art structure has no effect on the structure itself, and is merely an aesthetic design choice. (see MPEP 2144.04 [I.]) Lacking some criticality, a change of orientation would have no mechanical function and therefore cannot be relied upon to patentably distinguish the claimed invention from the prior art. The Appellant argues at page 15 ¶3 of the arguments filed May 20, 2005 that the claimed invention provides for minimal height while keeping storage density. Positioning a rectangular device on its longer side to reduce height is a common sense principle inherent to all rectangular shaped objects. It is not an unexpected result. Pavol also suggest changing the orientation for space considerations at column 3 lines 16-19.

d. The Examiner does not ignore the limitation of "secured to the mounting surface and configured to retain a first storage device carrier substantially perpendicular to the mounting surface". See the rejection of claim 1 above, and of claims 9 and 18 containing similar limitations. It is apparent, from at least Fig. 4 of Anderson, that the storage device carrier is substantially perpendicular to the mounting surface.

2. With respect to the arguments calling for the withdrawal of the 103 Rejections:

a. In the Examiner's response to arguments in the Non-Final Office Action filed March 6, 2006, the Examiner applied a new grounds of rejection. The arguments filed December 22, 2005 do not apply to the new grounds of rejection.

b. With respect to the argument that the language of Pavol is misinterpreted and does not apply to the drive module, the Appellant is incorrect. See 1(b) of this section above.

c. With respect to the argument directed towards the orientations claimed, see 1 of this section above.

d. With respect to the motivation/suggestion to combine the references: Anderson provides motivation at column 3 lines 53-59. The rails of Anderson guide the hard disk drive to mate with the electrical connectors for the hard disk drive. The rail system provides better alignment of the connectors over the flat smooth surface of Pavol; thus ensuring a secure connection and preventing possible connector damage due to misalignment. See also the rejections above stating this benefit.

3. With respect to the arguments concerning claims 3-8, 10, 11, 13-17, 19, and 20:

a. Pavol in view of Anderson teach all the elements of the independent claims, see 1 and 2 of this section above.

b. See the rejections above describing the interface shelf of the prior art. The interface shelf is not labeled, but is taught by the figures (at least by Fig. 1). The Appellant argues that Pavol and Anderson lack a teaching of an interface shelf that provides a void. The void is not claimed by the current version of the

claims. It is impermissible to read subject matter from the specification into the claim. See MPEP 2111.

4. With respect to claims 22 and 26: see 3 of this section above for the argument concerning the "void".

5. With respect to the arguments concerning claims 7 and 15:

   a. For the limitations related to claim 1, see 1 of this section above.

   b. As per the rejections above, Polch is relied upon to teach an enclosure chassis with a viscoelastic layer (elements 36, 38, 39, or 40) between a first (28) and second (26) layer.

   c. As per the rejections above, Pavol in view of Anderson is relied upon to teach a mounting surface with a viscoelastic layer (Pavol at least at column 4 28-31; column 5 4-15 and Fig. 3).

6. With respect to the arguments concerning claims 18 and 28-30:

   a. The Examiner notes that said claims are rejected over Pavol in view of Bell, not Pavol, Anderson, and Bell as stated in the arguments.

   b. For the limitations related to claim 1, see 1 of this section above.

   c. With respect to the suggestion/motivation: Bell relates to magnetic disk drive storage systems and provides a desired key improvement over standard systems. See column 1 lines 11-14 and column 2 lines 12-24.

7. With respect to the arguments concerning claims 19 and 20:

   a. For a response to the arguments over the parent claim 18, see 6 above.

b. For the motivation to combine Pavol and Bell see 6(c) of this section above.

c. With respect to the argument that Anderson teaches away from clip on springs. The prior art's mere disclosure that of an alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed. See MPEP 2123 [II.]. Anderson provides motivation to use other mounting means to secure the clip on spring at column 4, lines 64-67. In the Non-Final Office Action Filed February 8, 2005 and since, the Examiner has maintained that clip-on mounting means is a well known technique in the art. The Examiner put the Appellant on notice at page 13 ¶ of the Final Office Action mailed July 20, 2005 that if not properly traversed, the statement would be taken as admitted prior art. The Appellant has not traversed this statement anywhere on the record. See MPEP 2144.03(C) and *In re Chevenard*, 139 F.2d at 713, 60 USPQ at 241. Therefore clip-on mounting means is within the knowledge of one of ordinary skill in the art. It would have been obvious to one of ordinary skill in the art, motivated by Anderson, to adapt the known clip-on mounting means for the spring of Anderson for the benefit of an inexpensive and integral mounting means. For these reasons the rejection is considered proper.

8. With respect to the arguments concerning claims 21, 24, and 25: See 3 of this section above for the arguments concerning claims 3, and 11.

9. With respect to the arguments concerning claim 27: see the rejection above describing how the prior art teaches the limitations claimed. The receiving means is the LEXAN® material taught at column 5 lines 65-66 column 6 lines 1-2 of Pavol.

10. The arguments with respect to the objections are moot, since objections are not appealable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

LYNN FEILD
SUPERVISORY PATENT EXAMINER

CMB September 12, 2006

Conferees:

Lynn Field

David Blum